

STATE OF VERMONT
HUMAN SERVICES BOARD

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| In re |) | Fair Hearing No. 15,866 |
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| Appeal of |) | |
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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his application for Food Stamps. The issue is whether the petitioner refused to cooperate in having a face-to-face interview.

FINDINGS OF FACT

1. The petitioner filed a written application for Food Stamps on January 7, 1999. Sometime after receiving this application the Department scheduled the petitioner for an interview with his worker at the district office in the city where he lives. The interview was scheduled for February 11, 1999.

2. The petitioner is a Russian immigrant and utilizes the services of an interpreter from an agency that the Department recognizes and pays for its services to Department clients.

3. The petitioner maintains that he did not receive a notice of the interview, but learned of it from his interpreter (who apparently had received notice of it from the Department). On the day of the scheduled interview the petitioner appeared at the district office with the interpreter and accosted his worker in the hallway and

angrily demanded to know why he hadn't been notified of the interview. When the worker responded that she had notified him he demanded to see a copy of the letter she sent to him.

When the worker declined to produce that notice in the hallway the petitioner demanded to see her supervisor.

4. The worker informed the petitioner that her supervisor was not present that day, and she offered to conduct the scheduled interview. The petitioner refused to have the interview with her. At the hearing in this case (held on March 24, 1999) the petitioner testified (through his interpreter) that he wanted to see the supervisor on February 11 because his worker had "discriminated" against him for "the last four years".

5. Following the confrontation with the worker the petitioner left the district office without being interviewed.¹ On February 23, 1999, the Department notified the petitioner that his Food Stamps had been denied because he had refused to participate in an interview with his worker.

6. On the day of the fair hearing, the Department agreed to allow the petitioner to reapply for Food Stamps and have an interview that day with another worker so that his application for and receipt of Food Stamps would not be delayed further by the appeal process. The petitioner,

¹The Department alleges that it was necessary to call the police to escort the petitioner from the building. The petitioner vehemently denies this.

despite repeated explanations and encouragement from the hearing officer, the Department's attorney, and his own interpreter, refused to be interviewed unless the Department would agree, in advance, to essentially concede the issue at the hearing and backdate his application to January 7.

7. Based on the petitioner's testimony and demeanor it is clear to the hearing officer that the petitioner harbors a deep-rooted distrust of the Department and any appeals process associated with it. It is found that this distrust, rather than any rational decision-making process, has caused the petitioner to refuse to submit to an interview as of this time.

ORDER

The Department's decision is modified. The petitioner's application for Food Stamps dated January 7, 1999, shall be held open to allow the petitioner, if he chooses, to submit to an interview.

REASONS

Food Stamp Manual (FSM) § 273.2(e)(1) requires all households applying for Food Stamps to have a face-to-face interview with a qualified eligibility worker prior to initial certification and all recertification. Section 273.2(d)(1) of the Manual includes the following:

To determine eligibility, the application form must be

completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate with the State agency in completing this process, the application shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied. . . .

The issue in this case is whether the petitioner's actions on February 11, 1999, constituted a "refusal to cooperate" with the Department in the processing of his Food Stamp application. As found above, the petitioner did indicate on the day of his hearing a willingness to be interviewed by another worker--provided that he receive an assurance in advance that his application date of January 7, 1999, would be protected. Unfortunately, the hearing officer was unable to persuade the petitioner at the time of his hearing to file a new application and submit to an interview on the day of the hearing, and to allow a separate appeal on whether that application would go back to January 7. However, it must be concluded that the petitioner was within his rights, however ill-advised, to decline any further consideration of his case by the Department until his appeal has been decided.

Although the petitioner has not established that his worker "discriminated" against him, it is clear that there

was some deep-rooted misunderstanding and hostility on the part of the petitioner toward his worker when he appeared at the district office on February 11, 1999. To its credit, the Department has attempted to defuse that situation by offering the petitioner another worker. However, given the petitioner's state of mind on February 11, it cannot be concluded that he "refused to cooperate" with the Department on that day when the original worker's supervisor was unavailable to make a decision about whether the petitioner could get a new worker at that time.

The above regulations are clear that the Department cannot grant the petitioner's application for Food Stamps unless and until he submits to a face-to-face interview with a worker. However, in light of the above circumstances, it cannot be concluded that the above regulations support the denial of the petitioner's January 7, 1999, application either. Provided that the petitioner agrees to an interview, and otherwise cooperates in the application process, the Department shall consider his application of January 7, 1999, still pending; and it should schedule a new interview for the petitioner on this application forthwith.

If the petitioner does not submit to this scheduled interview, his application can be denied.

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